IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8762 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT ELECTRICITY BOARD

Versus

SWADIYA ABHAYKUMAR VINODRAY

Appearance:

1. Special Civil Application No. 8762 of 1992

MR MD PANDYA for Petitioner No. 1

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 06/05/2002

ORAL JUDGEMENT

1. The Gujarat Electricity Board has challenged the impugned award of the Labour Court, Rajkot directing the petitioner to give a fresh appointment to the respondent as Junior Assistant Cum Typist.

2. The respondent was temporarily employed and ultimately made an application pursuant to an

advertisement for appointment as Junior Assistant Cum Typist. As found by the Labour Court, he failed in the typing test twice and in the second attempt he had made thirty-two mistakes, and therefore, he could not be selected. These facts are recorded in paragraph 8 of the order. The grievance of the respondent was that the petitioner had engaged other persons after relieving him. In that context, the Labour Court found that he had not continuously served with the petitioner for claiming any rights on the basis of his earlier sporadic engagements. It was also found that the respondent after being relieved was working as a Clerk in Gandhinagar. Earlier, he was working in Ankleshwar and thus, he was not without employment.

3. Having found that the respondent had no valid claim to any post under the petitioner, the Labour Court surprisingly in a fit of mercy as can be seen from paragraph 10 of the order, felt that since the respondent was in urgent need of a job, he should be reinstated by fresh appointment under the petitioner-Board. To say the least, the Labour Court acted merely on its own instinct rather than on the basis of the finding given by it which did not entitle the respondent to get any reinstatement even by fresh appointment. The impugned order is, therefore, arbitrary and without any basis and cannot be sustained. On the finding given by the Labour Court, no such order of reinstatement could have been issued. The impugned award is, therefore, set aside. Rule is made absolute with no order as to costs.

(R.K.Abichandani,J.)

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